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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE FIRST MEETING

Held at the Palais des Nations, Geneva,
on Monday, 1 February 1993, at 10 a.m.

Temporary Chairman: Mr. NASSERI (Islamic Republic of Iran)

Chairman: Mr. ENNACEUR (Tunisia)

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The meeting was called to order at 11.40 a.m.

OPENING OF THE SESSION

1. THE TEMPORARY CHAIRMAN, acting in the place of the Chairman of the forty-eighth session of the Commission on Human Rights, who was unable to be present, declared open the forty-ninth session.

2. Mankind's legitimate hopes, as it entered into the century's final decade, for the advent of an age of peace, prosperity, freedom and justice had once again been dashed; it seemed that the end of the cold war had unleashed a whole set of demons thought to be extinct. The situation should not, however, give rise to despair, but should rather be seen as a challenge to be taken up.

3. The United Nations would have a fundamental role to play in that regard. The Charter was based on the fundamental and indivisible principles of peace, development and human rights. Within the field of human rights itself, success depended to a great extent on the respect accorded to economic, social, cultural, civil and political rights. It was a delicate matter to strike a balance between the implementation of those various rights; as the Secretary-General had remarked, human rights could not be upheld in the absence of economic development, while sustained economic development could not be realized without respect for human rights.

4. The new democracies of Eastern Europe and the countries of the former Soviet Union were facing severe economic problems that encouraged the emergence of totalitarian trends. Populations too preoccupied with the daily struggle for survival were less and less concerned with freedoms and human rights. There was equal case for dismay at the re-emergence in Europe's older democracies of violently racist tendencies, which were attributed to the recession - albeit relatively modest - in the region. The same factors were held responsible for the murderous rioting and disorder which affected a number of North American cities. At the same time many peoples in the developing world did not even enjoy the basic essentials for survival. The culture of human rights lost its meaning if chronic distress were not ended by the establishment of a favourable economic environment. Nevertheless, even if it was true that the effort to secure human rights in the strictest sense of the term did not, of itself, advance the cause of economic development, no economic ills, however disastrous, could justify the violation of human rights and fundamental freedoms.

5. The year 1993, that of the World Conference on Human Rights, provided an opportunity for reviewing progress, measuring the challenges that lay ahead, identifying the most critical shortcomings and attempting remedial action. In the standard-setting, much had already been achieved and the process was continuing. Many countries had also adhered to the human rights treaties. Nevertheless, some 60 countries, not counting the newly independent States, had as yet ratified neither of the two International Covenants on Human Rights: 25 Islamic States were among their number. Many of the signatories acknowledged that they had acceded to the Covenants out of fear of isolation or under political pressure. The Islamic States had already adopted their own Declaration of Human Rights, while the developing countries had also voiced their dissatisfaction with the existing instruments. The recent Non-Aligned

Summit had once again called for greater account to be taken, in the definition of human rights, of the historical, political, economic, social, religious and cultural realities that were specific to different countries or regions.

6. It was an accepted fact that the Islamic countries and the developing countries lacked the political leverage to contribute effectively to the formulation of basic human rights instruments. That being so, there were two options: either to ignore the reality and insist on the unalterability of those instruments on the grounds that they were broadly accepted; or to look at them again with a view to rendering them truly universal through renewed dialogue, while preserving the essential tenets already enshrined therein.

7. With respect to implementation, progress had been impeded by a lack of objectivity and impartiality that had been constantly deplored, the reasons for which must consequently be investigated. United Nations bodies dealing with human rights, which had been highly politicized during the cold war, should themselves be depoliticized to the greatest extent possible; that would require goodwill, imagination and innovativeness. As a century so heavily marked by the burden of history and by upheaval drew to a close, the implementation of human rights must not remain a mirage.

8. In 1992, the Commission had held two special sessions to examine the horrendous violations of human rights in Bosnia and Herzegovina: ethnic cleansing, mass murder, rape and other crimes that were tantamount to genocide. That situation should be accorded priority attention by the Commission, together with the issue of self-determination in the occupied territories, including Palestine, and the evolution of apartheid. The Commission should also concern itself as a matter of priority with the fate of the Palestinian deportees, who must be repatriated to Palestine in accordance with the relevant Security Council resolution.

STATEMENT BY THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

9. Mr. BLANCA (Under-Secretary-General for Human Rights) said that never before had democratic aspirations been voiced so clearly, so powerfully and so universally as in 1992. The free choice of governors by the governed had almost everywhere become the standard rule, and that must be a matter of satisfaction to all who set store by the rule of law, the defence and promotion of freedom and equality, respect for the individual and the fullest participation of citizens. The worldwide dimension assumed by the democratic idea meant that mankind was being confronted by new challenges whose solution depended on real progress in the establishment of institutions to support and strengthen that idea.

10. On the other hand, never in the past had the floodgates of violence and hatred been opened so wide. The inadmissible practice, condemned by the international community, of ethnic cleansing, which was particularly pronounced in Bosnia and Herzegovina, had resulted in the most serious, massive and systematic violations of human rights and of international humanitarian law.

11. The current session of the Commission constituted the first significant stage in what might indeed be called "the year of human rights". Three major events would highlight the importance and the central position of human rights in the thinking and the concerns of the United Nations and the international community: the International Year of the World's Indigenous People, the World Conference on Human Rights, and, lastly, the celebration of the forty-fifth anniversary of the adoption of the Universal Declaration of Human Rights.

12. In his report on the work of the Organization, the United Nations Secretary-General stressed that, although standards and procedures existed for normal situations, the United Nations had not been able to act effectively to put an end to massive human rights violations. Faced with the barbaric conduct which filled the news media daily, it could not stand idle or indifferent. The long-term credibility of the Organization as a whole would depend upon its success in responding to that challenge. The two special sessions devoted by the Commission to the situation of human rights in the territory of the former Yugoslavia had gone some way to meeting those expectations through recourse to the exceptional procedure provided for by the Economic and Social Council. The reports of the Special Rapporteur had led the Commission to adopt a resolution without precedent in its history. In addition to condemning categorically the practice of ethnic cleansing and recognizing Serbian responsibility, it reaffirmed that all persons who perpetrated or authorized crimes against humanity were "individually responsible" for such violations and that the international community would exert every effort to bring them to justice.

13. The time had perhaps come to reflect more deeply on certain ideas which had been put forward concerning an international criminal tribunal. Similarly, the study of the impunity enjoyed by those responsible for human rights violations, which was a basic impediment to respect for those rights, should culminate in recommendations and practical measures to put an end to such impunity.

14. Among the shadows in the area of human rights, the resurgence of racism, racial discrimination, xenophobia and anti-Semitism, together with the fate inflicted on national, ethnic, religious and linguistic minorities, were sources of grave concern. In that regard, strengthened action at the national and international levels alike was more than ever necessary. A third decade to combat racim and racial discrimination was thus imperative, and its launching, in 1993, by the General Assembly would favour increased international cooperation in the face of that plague. The appointment by the Commission on Human Rights of a special rapporteur on contemporary forms of racism and xenophobia worldwide would undoubtedly constitute the first step in the context of that new decade.

15. The strength of reason had been pitted against the reason of strength throughout the ages. The essential role of education and information in making known all the principles and instruments related to human rights required no emphasis. It was clear that democracy and the culture of human rights could develop only in the rich humus of universal education and subsoil of open-mindedness and tolerance. The effective protection and promotion of human rights was one of the major but also one of the most exciting challenges as the century drew to its end. That must be a coperative undertaking on the

part of all concerned: Governments, national institutions, non-governmental organizations, universities, teachers, the mass media, and - of course - the United Nations, the specialized agencies and intergovernmental and regional organizations. In that connection, the Centre for Human Rights had produced a large number of publications and information pamphlets as part of the World Public Information Campaign. Seminars, workshops, and training courses and fellowships were all ways and means of spreading the message of human rights. The UNESCO World Conference on Human Rights in Education and Democracy would make a useful contribution to consideration of the issue, and should open new channels which would be taken into account at the World Conference in Vienna.

16. The past year had seen an increase in requests for advisory services and technical assistance. Many countries that had embarked on the path of democracy were anxious to strengthen or establish institutions for the promotion and protection of human rights. For its part, the Centre had adopted a new policy based on a global approach to each country's needs, and a programme proposing specific projects tailored to those needs. Assistance with the various legal, technical or human rights-related aspects of democratic elections had been one of the key innovative elements of its programme.

17. To be in a position to respond to those growing requests for technical assistance, the Centre for Human Rights was endeavouring to establish a genuine partnership with the agencies and institutions of the United Nations and with other development cooperation agencies. That new method strengthened inter-agency cooperation and made it possible to integrate the human rights dimension in development processes and the United Nations system's political strategies for development.

18. All those substantive issues would undoubtedly form a central component of the discussions at the World Conference on Human Rights. Since the Commission's last session, the Preparatory Committee had met twice at Geneva and had adopted the rules of procedure for the Conference and a decision concerning participation in the preparatory regional meetings by those non-governmental organizations working in the fields of human rights or development that had their headquarters in the region concerned. Such non-governmental organizations had, incidentally, contributed greatly to the success of the first two regional meetings, held at Tunis and in Costa Rica. In both cases, the consensus declarations adopted had reaffirmed the importance attached by the States of the region to the principle of the Universal Declaration and to the two International Covenants on Human Rights. After the next regional meeting for Asia and the Pacific, it would thus be possible to obtain an overall picture of each region's concerns and areas of special interest. The final session of the Preparatory Committee could thus be devoted to substantive matters and to the results expected of the Vienna Conference.

19. A resolution presented by 134 countries had enabled agreement to be reached on a provisional agenda, thus leaving the way clear for in-depth debate and work on the major questions to be examined at the World Conference. The Conference would have, first, to assess the progress made on the road to universal respect for human rights, the effectiveness of the methods and

mechanisms established by the United Nations, and ways and means of strengthening the application of the standards in force; and secondly, to prepare for future action at governmental and United Nations levels.

20. In those difficult times, when tragedy was an everyday occurrence and mutual lack of understanding and suspicion were in danger of once again becoming the rule among the members of the international community, it was essential that all parties should affirm, by their presence, in their work and in their dialogues, the will of mankind to ensure that the universality of the principles set forth in 1948 by the General Assembly should be the basis of all action, whether civil, economic or cultural. Victor Hugo had said that, in the field of human rights, there was still more promised land than ground gained. Consequently, no effort must be spared to bring that promised land closer, and to make the twenty-first century the one in which the rule of law would prevail over arbitrariness and Messianism.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

21. The TEMPORARY CHAIRMAN said that, in accordance with rule 15 of the rules of procedure of the functional commissions of the Economic and Social Council, the Commission had to elect the Chairman and other officers for its forty-ninth session.

22. Mr. Ennaceur (Tunisia) was elected Chairman by acclamation.

23. Mr. Ennaceur (Tunisia) took the Chair.

24. The CHAIRMAN thanked the members for the honour they had done his country by electing him Chairman of the Commission at its forty-ninth session. With the increase in the number of countries that had ratified the international human rights instruments and the establishment of the cause of human rights as one of the underlying principles governing international relations, a new international climate of opinion had set in, one devoted to that cause and bent on ensuring respect for those rights and their full realization throughout the world. It was important to highlight the essential role played in that regard by the representatives of the mass media, who had given humanitarian causes their rightful place in the hierarchy of public concerns, sometimes risking their lives in the process.

25. At a time when the international community was improving the procedures for monitoring application of human rights standards and when a general awareness of the values they represented, as well as of democratic values, was gaining ground, the world was unfortunately witnessing a proliferation of massive human rights violations which called into question the community's credibility and its capacity to impose a world order based on justice, freedom and respect for human rights. In several regions of the world, the end of the century was marked by a resurgence of violence and terrorism, by civil wars and by ethnic, tribal and social conflicts, and by the collapse of certain State institutions which, by bringing about a weakening of the rule of law, often opened the way to anarchy, with the massive and flagrant violations of human rights that were its concomitant. There was also a serious deterioration in the human rights situation as a result of the extension of poverty and the failure to meet the basic needs of broad sections of the

population. Also worthy of note were the emergence of new extremist tendencies, under the cloak of religion or of the defence of racial or ethnic groups, and of new forms of social behaviour based on the exclusion and rejection of others.

26. In response to those diverse and complex situations, the international community must implement a comprehensive and integrated international strategy for the protection and promotion of human rights, that took account of all aspects of the problem. The World Conference on Human Rights, to be held in Vienna in June 1993, should set out, inter alia, to examine the mechanisms and structures to be used in the context of such a strategy. While all the States members of the Commission had different interests, they must nevertheless keep constantly in mind that they had a common objective, namely respect for and promotion of all human rights, whether civil and political or economic, social and cultural; and one could reasonably hope that they would work together in the Commission in a spirit of serenity and cooperation.

27. Furthermore, the Commission must not merely condemn human rights violations; it must also prevent them, analyse objectively the manifold causes of infringements of those rights, and evaluate the progress made and the shortcomings to be rectified. He suggested that the evaluation of the results of each session of the Commission should concern not merely the number of resolutions adopted, but should also lead the member States to ask themselves what the Commission had actually done to improve the situation with regard to human rights.

28. He concluded by inviting the Commission to elect one or more vice-chairmen and other officers from among the representatives of its members.

29. Mr. Flinterman (Netherlands), Mr. Garretón (Chile) and Mr. Brotodiningrat (Indonesia) were elected Vice-Chairmen.

30. Mr. Kedzia (Poland) was elected Rapporteur.

31. Mr. BAUM (Germany), speaking on a point of order, said that the European Community and its member States did not accept that the Federal Republic of Yugoslavia (Serbia and Montenegro) had automatically succeeded the Socialist Federal Republic of Yugoslavia. He referred, in that connection, to General Assembly resolution 47/1, adopted on 22 September 1992, in which the Assembly considered that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations; and in which it therefore decided that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it should not participate in the work of the General Assembly. The European Community and its member States had also noted the opinion of the United Nations Legal Counsel on the applicability of the General Assembly resolution to the other United Nations organs. Resolution 47/1 was, in their opinion, a model for the procedure to be followed, as and when applicable, in the specialized agencies and other organs of the United Nations. They did not accept that the representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) were the valid representatives of Yugoslavia at the current

session of the Commission. The presence of those representatives was without prejudice to any decision that the Community and its member States might take at a later date.

32. Mr. ABRAM (United States of America), Mr. DUBOIS (Canada), Mr. STROHAL (Austria), Mr. WILLIS (Australia), Mr. VELTHEIM (Finland), speaking also on behalf of Denmark, Iceland, Norway and Sweden, and Mr. ITO (Japan) associated themselves with the statement by the representative of Germany. Also referring to Assembly resolution 47/1, they did not accept that the Federal Republic of Yugoslavia (Serbia and Montenegro) had automatically succeeded the Socialist Federal Republic of Yugoslavia. Any participation by the Federal Republic of Yugoslavia (Serbia and Montenegro) in the Commission's session as an observer, should it occur, was without prejudice to the decisions that might be taken subsequently.

33. The CHAIRMAN took note of the statements by the representatives of Germany, the United States of America, Canada, Austria, Australia, Finland and Japan.

ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/1993/1 and Add. 1; E/CN.4/1993/78 and 80)

34. Ms. PARK (Canada) said that, since the Commission's last session, the attention of the international community had been focused on the human rights situation in the former Yugoslavia. All the efforts that had been made, at every level, to put an end to the violations committed in that country had proved fruitless. The seriousness of the situation had necessitated the convening of two special sessions of the Commission: the first in August 1992, at which it had appointed a Special Rapporteur on the question, Mr. Mazowiecki; the second in December 1992, at which it had considered the reports prepared by the Special Rapporteur. As there was no sign of a halt to the atrocities being committed in the former Yugoslavia, it was absolutely essential that the Commission should consider the question as a matter of priority. Her delegation thus proposed the inclusion of a new item in the agenda, to be entitled "Situation of human rights in the territory of the former Yugoslavia". She hoped that all the members of the Commission would accept that proposal, and that the new agenda item could be debated at the beginning of the following week, when the Special Rapporteur would himself be present.

35. Mrs. GALVIS (Colombia) reminded members that the General Assembly had proclaimed 1993 to be the International Year of the World's Indigenous People. That decision had been enthusiastically welcomed by the countries of the Latin American Group, which had taken a number of initiatives to ensure that the Year was commemorated in an appropriate fashion. Convinced that the Commission should accord high priority to that question, her delegation proposed the inclusion in the agenda of a new item entitled "Commemoration of the International Year of the World's Indigenous People". It would be for the officers to determine how the Commission was to commemorate the Year.

36. Mr. ABRAM (United States of America) said he supported the proposal by the representative of Canada. The human rights situation in the former Yugoslavia was indeed extremely serious, and there was no reason to expect any

improvement, since the major leaders did not seem disposed to take remedial measures. What was currently happening in the former Yugoslavia constituted a threat to peace, not only in Europe, but also in the entire world, and it was thus essential that the Commission should give top priority to the question, thereby demonstrating its awareness of its responsibilities in the field of human rights.

37. Mr. BAUM (Germany) said he, too, thought that the Commission should examine the situation of human rights in the former Yugoslavia as a matter of urgency. His delegation thus supported the proposal by the Canadian delegation, and hoped that the Commission would be able to begin a discussion on the question at the start of the following week, when the report by the Special Rapporteur, Mr. Mazowiecki, would be available. His delegation also supported the Colombian proposal that the International Year of the World's Indigenous People should be added to the agenda as a separate item.

38. Mr. STROHAL (Austria) said he, too, unreservedly supported the Canadian proposal that the Commission should examine the situation of human rights in the former Yugoslavia under a separate item of its agenda, as his delegation was particularly concerned by the events there, and especially in Bosnia and Herzegovina. It hoped that Mr. Mazowiecki's report would be available very shortly, and that the decisions to be taken by the Commission at the end of its consideration would lead to the adoption of remedial measures.

39. Mr. DUBOIS (Canada) said that Canada took a general interest in all questions relating to indigenous peoples and had enthusiastically supported the proclamation by the General Assembly of the International Year of the World's Indigenous People. Canadian representatives had, incidentally, taken an active part in the ceremonies held in New York on 10 and 11 December 1992 to mark the beginning of the Year, and had made a contribution in support of the activities to take place in that context. His delegation thus supported the proposal by the representative of Colombia. However, it saw no need to amend the Commission's agenda, since questions relating to indigenous populations could be dealt with under agenda item 19 in the normal fashion. The officers might, perhaps, consider what should be done to ensure that the question was taken up by the Commission as a matter of priority.

40. Mr. MALGUINOV (Russian Federation) supported the proposal that the Commission should consider the situation of human rights in the former Yugoslavia under a separate item of its agenda, since the question was one of great importance, to which the utmost attention should be devoted as a matter of urgency. His delegation hoped that the debate would take account of the documents to be made available to the Commission in that regard, including the most recent report by Mr. Mazowiecki, and that the documents in question would be available in all the official languages of the United Nations.

41. The CHAIRMAN noted that the Canadian proposal to include a new item on the agenda entitled "Situation of human rights in the territory of the former Yugoslavia" seemed to meet with general approval. The second proposal, regarding the addition to the agenda of a new item entitled "Commemoration of the International Year of the World's Indigenous People", put forward by the representative of Colombia, had received some support but had also elicited some reservations on the part of the Canadian delegation. Consequently, he

suggested that the Commission should adopt the Canadian proposal forthwith and that it should revert at a latter stage to the second amendment to the agenda proposed by the delegation of Colombia, when a consensus had emerged on the point.

42. Mr. ALFONSO MARTINEZ (Cuba), speaking on a point of order, said that the Canadian delegation had raised no objection to the Colombian proposal. It had merely said that, once the new item had been placed on the agenda, the officers might then make recommendations regarding the procedure to be followed by the Commission in its commemoration of the Year. Moreover, the German delegation had also supported the proposal. His own delegation took the view that the proposal was a most appropriate one that would enable questions under agenda item 19 to be examined in greater detail. It would thus be better to decide to include that new item in the agenda without further ado.

43. Mr. DUBOIS (Canada) said that his delegation supported the idea of commemorating the International Year of the World's Indigenous People. However, in view of the fact that agenda item 19 also dealt with indigenous people, it saw no need to add to the agenda a new item on the topic.

44. Mr. GARRETÓN (Chile) said he was aware of the fact that the International Year of the World's Indigenous People could be discussed under agenda item 19, but that, in order to demonstrate its solidarity with the indigenous peoples, the Latin American Group wished to make a significant political gesture going beyond consideration of reports or of draft resolutions on the question. His delegation thus unreservedly supported the Colombian proposal to make commemoration of the International Year of the World's Indigenous People a separate item on the Commission's agenda.

45. The CHAIRMAN pointed out that, however that might be, the Colombian proposal did not command a consensus, and that the Commission was thus unable to decide to adopt it immediately. He therefore suggested that any delegations wishing to do so should engage in consultations on the question and submit to the officers their proposals as to the best way of proceeding.

The meeting rose at 1.40 p.m.